

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5023 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKAR

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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BALKRISHNA NANALAL SHAH

Versus

BROACH MUNICIPALITY  
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Appearance:

MR HB SHAH for Petitioners  
Ms Paurmi Sheth for Mr.BR SHAH for Respondent No. 1  
Mr L.R.Pujari, AGP for Respondent No. 2 and 3  
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CORAM : MR.JUSTICE C.K.THAKKAR

Date of decision: 03/03/2000

ORAL JUDGEMENT

This petition is filed for an appropriate writ, order or  
direction in terms of para 12 of the petition. It reads  
as under :

"The petitioners having no other alternative, adequate and efficacious remedy available approach this Honourable court by way of this petition under Article 226 of the Constitution of India, and pray that a writ of mandamus or any other appropriate writ, order or direction be issued:

- (A) directing the respondent municipality to pay to the petitioners in the pay scale of Rs. 330-560 with effect from 1.1.1973 and pay them arrears of salary on that basis forthwith;
- (B) directing the respondent municipality to treat the petitioners on par with Malaria Inspectors working under it for all purposes including payment of salary and give them all the benefits on that basis immediately;
- (C) directing the respondent municipality to act according to law;
- (D) directing the respondent municipality to pay costs of this petition to the petitioners."

Rule was issued. Today, the matter is called out for final hearing.

Ms. Paurvi Sheth for Mr. B.R.Shah for respondent No.1 states that an order was passed by the Chief Officer of Broach Municipality, respondent No.1 on October 15, 1996 granting certain benefits to the Sanitary Inspectors in the pay scale of Rs. 1400- 2300. Said communication is taken on record. It is no doubt true that the prayer of the petitioners is to grant benefits with effect from January 1, 1993. But it cannot be ignored that the petition was filed in 1987 and again, the municipality would be granting such benefits on the basis of availability of amount from the Government. When the Government has taken decision , obviously, to that extent, the petitioners' grievance does not survive and no further relief can be granted . Accordingly, the petition deserves to be disposed of and is accordingly disposed of. Rule discharged. No order as to costs. Liberty to apply in case of difficulty.

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parekh

